
Z-2290
MARK D. KYBURZ
AA TO GB

STAFF REPORT
April 13, 2006

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, represented by Daniel Teder with the law firm of Reiling, Teder & Schrier, is requesting the rezoning of a 4 acre triangular shaped tract located between US 52 and CR 500 N in order to relocate an auto sales and mechanic business currently operating inside the Otterbein town limits. The property is east of town and is located at 9010 W 500 N, Shelby 27(SE)24-6.

ZONING HISTORY AND AREA ZONING PATTERNS:

The site is zoned AA, Select Agricultural, as is land to the north, south and east. Much of Shelby Township took on AA zoning during an overall township rezone in 1988 (Z-1331). The vast areas of AA zoning were motivated primarily by citizens who were concerned about the potential development of a landfill. Land adjacent to the west was successfully rezoned to GB in 2001 against staff's recommendation (Z-2035).

AREA LAND USE PATTERNS:

A building that was formerly used as a church and its parking lot occupy the site. Adjacent to the west is a gas station and convenience store; further west nearer the town is a health care facility. Land north of US 52 and south of CR 500 N is used agriculturally. The acreage between the convenience store and town is also farmed.

TRAFFIC AND TRANSPORTATION:

The property is located between CR 500 N and US 52; the *Thoroughfare Plan* classifies them as a rural local road and a divided primary arterial respectively. There is an existing drive accessing the county road. Future access to US 52 would have to receive approval from INDOT.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Based on conversations with the Tippecanoe County Health Department, the site has an existing septic system that should be able to support the number of proposed employees: 4 full time employees and 1 part time employee. Should the existing system fail, petitioner would have to seek sanitary sewer and water services from the town.

Staff received a letter from the Otterbein Town Council, which stated that at their last meeting they decided that petitioner's property would have full access to water and wastewater utilities, pending annexation agreements.

STAFF COMMENTS:

Petitioner is seeking this rezone in order to relocate his existing auto business, which includes retail and service components, and proposes to use the site's existing building. The business is currently located inside the Otterbein town limits, unfortunately the business must move from its current location at no fault of petitioner. Although this business would draw customers from

both Otterbein and Tippecanoe County, it's location outside the town's corporate limits means that this request is evaluated based on Tippecanoe County's adopted Comprehensive Plan. Property inside the town limits falls under the jurisdiction of the Benton County Plan Commission.

Staff has discussed and recommended annexation to petitioner's representative, but unfortunately that is hindered by an earlier annexation of the adjacent property, the legality of which has been questioned by Tippecanoe County government officials and legal counsel. The unresolved issues have prevented that annexation from being shown on APC maps and in the Auditor's plat books. Staff still feels that while there might be issues to resolve with the previous annexation, this and adjacent properties would be better served by the Benton County Plan Commission if their development is supported by the town. A recent letter from the town council offered their support of this request and mentioned pending annexation agreements.

Generally, for a request to reclassify AA zoned land, staff reevaluates the matrix as stated in the *Comprehensive Plan*. Although the soils in this area have high soil productivity, staff realizes that the chance of this piece of ground returning to an agricultural use is slim. The shape, size and location make it less suitable than other ground for farming. That being said, it does not mean that staff has changed its philosophy about rezoning land on the outskirts of an established town. When businesses are located and developed a half a mile from the town's center it depletes the downtown district and encourages other business owners to do the same, which leads to further degradation. When the owners of the convenience store sought GB zoning in 2001, staff argued that not only would it be detrimental to the downtown business district, but that it would also lead to further requests for commercial rezones along US 52.

Although this site may serve petitioner's needs and has an unlikely agricultural future, staff cannot support it. Staff understands that petitioner is being forced out of his current location and that this property is already owned by his family; however, that does not alleviate the planning conundrum of supporting a request of this nature. In the recent past, staff has supported ordinance amendments to allow Neighborhood Business Urban zoning in small towns so that property owners would have a better chance of developing existing commercial properties. Staff's support was based on the belief that to thrive, smaller towns need a downtown business district, preferably in walking distance of residents. Supporting commercial rezones for land outside of the town's boundary does not coincide with staff's philosophy. Approval of this request could likely trigger future commercial rezones along US 52 and could in turn further the degradation of the town's business district.

STAFF RECOMMENDATION:

Denial

